



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

WAGGONER CARR
ATTORNEY GENERAL

April 13, 1966

Honorable Jules Damiani, Jr.
Criminal District Attorney
Galveston County
Galveston, Texas

Opinion No. C-657

Re: Payment of investigation
and expert testimony ex-
penses incurred for an ex-
amining trial.

Dear Mr. Damiani:

In a recent opinion request of this office you pose the following question:

Does Article 26.05 (c), Vernon's Code of Criminal Procedure of Texas, 1966, apply so as to provide payment for expenses incurred for the purposes of investigation and expert testimony by an appointed counsel in an examining trial.

Article 26.05, V.C.C.P., 1966, provides, in pertinent part, as follows:

"Section 1. A counsel appointed to defend a person accused of a felony or a misdemeanor punishable by imprisonment shall be paid from the general fund of the county in which the prosecution was instituted according to the following schedule:

(c) For expenses incurred for purposes of investigation and expert testimony, not more than \$250.00;

..."

Article 16.01, Code of Criminal Procedure, 1966, provides, among other things, that a magistrate has the authority to appoint counsel to represent an accused in an examining trial. In Attorney General's Opinion No. C-654, dated April 12, 1966, this office held that an attorney appointed to represent an accused in an examining trial was entitled to be compensated for his work in accordance with Article 26.05. It is our opinion, therefore, that Article 26.05, (c) is applicable to examining trials and counsel who incur

expenses for investigation and expert testimony in an examining trial are entitled to be reimbursed in accordance with the provisions of Article 26.05.

S U M M A R Y

Article 26.05 (c), Code of Criminal Procedure, 1966, applies to examining trials, and counsel who incur expenses for investigation and expert testimony are entitled to be reimbursed therefor in accordance with said Article.

Yours very truly,

WAGGONER CARR
Attorney General of Texas

By Sam Kelley
Sam Kelley
Assistant Attorney General

SK/lh

APPROVED

OPINION COMMITTEE

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APPROVED FOR THE ATTORNEY GENERAL
BY: T. B. Wright